

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
July 1, 2017 Annual Access Charge Tariff Filings)	WC Docket No. 17-65
)	
CenturyLink Operating Companies)	Transmittal No. 93
Revisions to Tariff FCC Nos. 1, 2, 3, 6, 7, 8, 9, 11)	
)	
Ameritech Operating Companies)	Transmittal No. 1860
Revisions to Tariff FCC No. 2)	
)	
BellSouth Telecommunications)	Transmittal No. 130
Revisions to Tariff FCC No. 1)	
)	
Cincinnati Bell)	Transmittal No. 909
Revisions to Tariff FCC No. 35)	
)	
Nevada Bell)	Transmittal No. 301
Revisions to Tariff FCC No. 1)	
)	
Pacific Bell)	Transmittal No. 553
Revisions to Tariff FCC No. 1)	
)	
Southwestern Bell)	Transmittal No. 3444
Revisions to Tariff FCC No. 73)	
)	
Verizon Telephone Companies)	Transmittal No. 1347
Revisions to Tariff FCC No. 1)	

**PETITION TO REJECT, OR IN THE ALTERNATIVE SUSPEND AND
INVESTIGATE, OF SPRINT CORPORATION**

Sprint Corporation (“Sprint”) hereby respectfully requests rejection, or in the alternative, suspension and investigation, of each of the above-captioned tariff filings to the extent that each tariff fails to implement the express requirements of 47 C.F.R. § 51.907(g)(2) of the FCC’s Rules (“Step 6 Rule”). Each of the tariff-filing carriers is a

price cap incumbent local exchange carrier (“ILEC”). Pursuant to the Step 6 Rule, effective July 1, 2017, these ILEC-filed tariffs are required to:

establish, for interstate and intrastate terminating traffic traversing a tandem switch that the terminating carrier or its affiliates owns, Tandem-Switched Transport Access Service rates no greater than \$0.0007 per minute.¹

Contrary to the FCC’s Step 6 Rule, each of these ILEC-filed tariffs improperly limits assessment of the \$.0007 transitional tandem switched transport rate only to traffic that traverses the ILEC tandem switch and terminates to an end office owned by that same ILEC. As required by the FCC’s Step 6 Rule, the \$.0007 transitional rate applies to all traffic traversing the ILEC tandem switch and terminating not only to an end office owned by the ILEC tandem-owner, but also to end offices owned by any affiliate of that ILEC tandem-owner. Such affiliates include the ILEC’s affiliate CLEC entities, affiliate wireless carrier entities, and affiliate non-ILEC VoIP entities. As currently filed, each of these tariffs ignores the express language of the FCC’s Step 6 Rule and will unlawfully impose tandem switching rates higher than \$.0007 for traffic terminated via the ILEC tandem to its affiliates. In support thereof, Sprint states as follows.

In the instant 2017 annual access filings, price cap LECs have proposed tariff revisions purporting to implement Step 6 of the mandated transition of tandem switched transport access charges to a rate no higher than \$.0007 per minute for terminating traffic that traverses a price cap LEC tandem switch and terminates to an end office owned by that price cap carrier “or its affiliate.”² At least one ILEC, CenturyLink, explicitly proposes to limit the transitional tandem switched transport rate to traversing traffic that terminates to an end office owned by the ILEC itself. The other price cap ILECs

¹ See 47 C.F.R. § 51.907(g)(2). Section 51.907(h) implements Step 7 of the transition, to a zero rate (bill-and-keep).

somewhat more ambiguously would assess the transitional rate to traversing traffic that terminates to a “telephone company end office.” None of the ILECs use the express Section 51.907(g) language to identify the correct scope of traffic subject to the \$0.0007 transitional rate, excluding application of the rate to traffic terminated via the ILEC tandem to an end office of the ILEC’s affiliate wireless entities, affiliate CLEC entities or affiliate non-ILEC VoIP entities. The failure to assess the \$0.0007 transitional rates where the subtending end office is owned by these ILEC tandem-owner affiliates violates Section 51.907(g) of the FCC’s Rules, and such tariff revisions should accordingly be rejected (with compliant provisions re-filed with a July 1, 2017 effective date), or suspended and set for investigation. Incumbent price cap LECs other than CenturyLink must also explicitly state that a “telephone company end office” includes subtending end offices owned by any of their respective affiliates.

CenturyLink

CenturyLink’s tariffs include two different sets of terminating tandem switching rates, designated “terminating 3rd party” and “terminating end office.” In general, CenturyLink’s terminating 3rd party rates are higher than the terminating end office rates.³ CenturyLink proposes to assess the higher terminating 3rd party rates “when

² *Id.*

³ *See, e.g.*, Tariff F.C.C. No. 1, Section 19.2.2, 3rd revised page 19-5, proposed rates for CenturyTel Midwest-Michigan:

Terminating Tandem Switched Transport is provided through a CenturyLink Operating Company (CLOC) ILEC Access Tandem and the Terminating End Office is not owned by a CLOC ILEC.”⁴ In other words, the lower transitional rates apply only when the terminating end office is owned by a CenturyLink ILEC, but not when it is owned by any other CenturyLink affiliate. Because the FCC’s rules require assessment of the transitional rate when the end office is owned by *any* affiliate of the price cap LEC tandem-owner, CenturyLink’s proposed tariff should be rejected, and CenturyLink should be required to refile compliant tariff provisions with an effective date of July 1, 2017.

Sections 51.907(g) and (h) of the FCC’s Rules require that price cap carriers reduce their tandem switching and transport rates to no higher than \$.0007 in year 6 and to zero in year 7 for terminating traffic traversing a tandem switch “that the terminating carrier or its affiliates owns.” Nothing in this rule defines affiliates only as a price cap local exchange operating company,⁵ and indeed, affiliate is defined much more broadly in

Tandem Switched Facility		
	Terminating 3 rd party	\$.000006
	Terminating End Office	\$.000000
Tandem Switched Termination		
	Terminating 3 rd party	\$.000022
	Terminating End Office	\$.000000
Tandem Switching		
	Terminating 3 rd party	\$.003578
	Terminating End Office	\$.000700

⁴ See CenturyLink Tariff FCC No. 1, proposed Section 2.4.7(A)(2)(c)(iii).

⁵ Had the Commission intended to adopt such a specific limitation, it could have used the phrase “its price cap ILEC affiliates” rather than the broader “its affiliates” in Section 51.907(g)(2).

Section 3 of the Telecommunications Act.⁶ CenturyLink's proposed tariff language limiting ownership only to its ILECs is clearly at odds with this statutory definition, and should accordingly be rejected.

CenturyLink itself has recognized that limiting the transitional rate to instances in which the end office is owned only by one of its ILEC operating companies is highly problematic. On April 11, 2017, it filed a "Petition for Limited Stay of Transformation Order Years 6 and 7 ICC Transition – As It Impacts A Subset of Tandem Switching and Transport Charges,"⁷ requesting guidance from the Commission about what constitutes an affiliate. Although CenturyLink's request for a stay was procedurally defective and contrary to the public interest, Sprint recommended that the Commission clarify that the statutory definition of affiliate was applicable to the implementation of Section 51.907(g) and (h), and that an affiliate can include any type of entity that owns the subtending end office, including an ILEC, a CLEC, a wireless carrier, or a non-ILEC VoIP company.⁸

Other Price Cap LECs

Several price cap LECs other than CenturyLink propose to assess the lower transitional access tandem switching and transport rates on tandem-traversing traffic that terminates to "the telephone company end office." To the extent that this refers only to traffic terminating to end offices owned by their ILEC affiliates, but not to traffic terminating to end offices owned by their non-ILEC affiliates, the tariff provisions also violate the express language of 51.907(g)(2) and should be rejected, with compliant

⁶ 47 U.S.C. §153(1) defines an affiliate as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent."

⁷ Filed in *Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*

language re-filed with a July 1, 2017 effective date, or alternatively suspended and set for investigation:

- The AT&T price cap LECs (Ameritech, BellSouth, Nevada Bell, Pacific Bell, Southwestern Bell) - the lower transitional access tandem switching rates are assessed on traffic terminating to “Telephone Company’s own end office.”⁹
- Verizon – the lower transitional access tandem switching rates are assessed on traffic terminating to “Telephone Company end offices.”¹⁰
- Cincinnati Bell – assesses lower tandem switched transport rate on traffic to “terminating end office” than the rate assessed on traffic to “terminating third party” end office, apparently without defining whether the former is for all of its affiliates or only for its ILEC affiliates.¹¹

If these incumbent price cap LECs do in fact intend to assess the transitional rates as required by Section 51.907(g), they should revise their tariffs to specifically state that the transitional tandem switching and transport rates are applied to traversing traffic that terminates to end offices owned by any of their respective affiliates.

⁸ See Sprint’s Opposition to CenturyLink’s Petition for Limited Stay, filed May 4, 2017, and reply comments filed May 11, 2017.

⁹ See Ameritech Tariff FCC No. 2, Section 6.9.1(A); BellSouth Tariff FCC No. 1, Section 6.8.1(C)(1); Nevada Bell Tariff FCC No. 1, Section 6.8.1(C); Pacific Bell Tariff FCC No. 1, Section 6.8.2(C); Southwestern Bell Tariff FCC No. 73, Section 6.9.2(C).

¹⁰ See Verizon Tariff FCC No. 1, Section 6.9.1(B).

¹¹ See Cincinnati Bell Tariff FCC No. 35, Section 6.8.2(c).

Respectfully submitted,

SPRINT CORPORATION

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June 23, 2017